

Claimant testified, both at a discovery deposition on January 11, 2000, and at the preliminary hearing on February 2, 2000, that he discussed the incident with "Bill." This

person was later identified as Edward William (Bill) Vereen, the customer service coordinator for respondent and claimant's supervisor.

Claimant testified on more than one occasion that he advised Bill that "I kind of hurt myself," although claimant acknowledges he was not real specific. He did state that he told Bill the injury occurred while he was unloading panels.

Mr. Vereen testified that he had no memory of claimant advising him of being injured. He did go on to state, however, that, if claimant said "I hurt my back" without a specific request for medical treatment, he may not remember that comment. Mr. Vereen was new at the job on September 20, 1999. He acknowledged that people performing these labors would get aches and pains and sometimes tell him that they were sore. He believed this to be a regular part of the job. He was responsible for reporting work-related accidents, but would not report all of the aches and pains discussed on the job.

The Administrative Law Judge found that notice was not given within ten days. The Appeals Board disagrees, finding that claimant did discuss the incident with Bill, his supervisor, and that this testimony is more credible than the "I don't remember" testimony of Mr. Vereen. The Appeals Board, therefore, finds for preliminary hearing purposes that claimant provided timely notice of accident.

Therefore, the Order For Medical Treatment issued by the Administrative Law Judge on February 9, 2000, is affirmed, although for different reasons.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order For Medical Treatment of February 9, 2000, issued by Administrative Law Judge Bryce D. Benedict should be, and is hereby, affirmed for the reasons above stated.

IT IS SO ORDERED.

Dated this ____ day of April 2000.

BOARD MEMBER

c: James A. Peter, Wichita, KS
James B. Biggs, Topeka, KS
Bryce D. Benedict, Administrative Law Judge
Philip S. Harness, Director